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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,788	06/15/2001	James K. Hawley	M 6675 MANCO	9982

7590 08/14/2002
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EXAMINER

EGAN, BRIAN P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/14/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/882,788	HAWLEY ET AL.	
	Examiner	Art Unit	
	Brian P. Egan	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention. The phrase, "shelf liner," was not adequately defined within the specification and it therefore unclear what exactly constitutes a "shelf liner." The phrase, "shelf liner," has therefore been interpreted in its broadest possible sense and has been defined to include any type of liner material since any liner material placed on a shelf would serve as a shelf liner.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-10, 12, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sackoff et al. (#4,151,319) in view of Fagan (#4,783,354), Shepherd (#6,025,058), and Aoki et al. (#3,808,091).

Sackoff teaches a synthetic shelf liner (see Abstract) comprising a base layer (Col. 7, line 62 to Col. 8, line 25) having on a first side a layer of polymeric material (Col. 5, lines 10-16; Col. 8, lines 6-14) and having on a second side a layer of adhesive (Fig. 6, #104). The overall

Art Unit: 1772

thickness of the liner is 1 to 15 mils wherein the adhesive has a thickness in the range of 0.1 to 7 mils and the overall thickness of the laminate is determined by the general end purpose for which it is to be used (Col. 4, lines 1-22). Sackoff teaches that the outer surface of the base layer is treated in such a manner so as to possess or is composed of a material which inherently possesses good release properties relative to the pressure sensitive adhesive material used (Col. 5, lines 10-16). The sheet of synthetic material can be wood, metal foil, paper, or a plastic film, e.g., vinyl polymers, polyolefins such as polypropylene and polyethylene, polyesters, copolymers thereof, or woven or non-woven fabric (Col. 7, line 62 to Col. 8, line 14). The adhesive layer is a pressure sensitive acrylic adhesive (Col. 7, lines 22-23). Sackoff also teaches that the liner does not have a release liner such that when the liner is rolled, the adhesive is in contact with the release surface of the base layer (Col. 5, lines 23-31).

Sackoff fails explicitly state that the base substrate is a synthetic paper, although it is notoriously well known in the art that polyethylene, polypropylene, and copolymers thereof, are used to form synthetic paper as evidenced by Aoki et al. (Col. 3, lines 14-20). Sackoff further fails to explicitly state whether the acrylic adhesive is repositionable, that the release layer on the upper surface of the base layer comprises silicone, and the physical properties of the base substrate.

Fagan, however, teaches a shelf liner (see Abstract) wherein the shelf liner comprises a repositionable acrylic adhesive (Col. 2, lines 8-13 and 39-41). Fagan teaches the use of a repositionable acrylic adhesive for the purpose of allowing the user to remove bubbles and wrinkles and to properly match any patterns or designs which appear on the outer side of the base sheet (Col. 7, lines 63-66). It would have been obvious through routine experimentation to

Art Unit: 1772

one of ordinary skill at the time applicants invention was made to have used a repositionable acrylic adhesive on the backside of a shelf liner for the purpose of allowing the user to remove bubbles and wrinkles and to properly match any patterns or designs which appear on the outer side of the base sheet as taught by Fagan.

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicants invention was made to have modified Sackoff et al. to include a repositionable acrylic adhesive as taught by Fagan in order to allow the user to remove bubbles and wrinkles and to properly match any patterns or designs which appear on the outer side of the base sheet.

Shepherd teaches a synthetic paper substrate that can be used for the purpose of providing an alternative to paper wherein durability and toughness are improved (Col. 1, lines 25-27) as well as demonstrating an improved printability over the prior art synthetic papers (Col. 1, lines 37-47; Col. 2, lines 20-22). The synthetic paper comprises a polyolefin film base layer and a surface layer with a silicone polymeric material (Col. 2, lines 23-30). Depending on the desired end product, a pressure sensitive adhesive coating is applied to the surface of the base layer (Col. 4, lines 41-45). The thickness of the base layer is between 10 and 500 micrometers (Col. 3, line 6-8) wherein the film exhibits a tensile strength in the machine direction of 5203 pounds per square inch and 4842 pounds per square inch in the transverse direction (see Table 6). The base primarily comprises a copolymer of polyethylene (see Table 1) (note also that polyethylene and polypropylene are functionally equivalent as demonstrated by Aoki et al. (Col. 3, lines 14-20)). It would have been obvious through routine experimentation to one of ordinary skill in the art at the time applicants invention was made to have used a two-layered synthetic paper substrate for a shelf liner for the purpose of providing an alternative to paper wherein durability and toughness

Art Unit: 1772

are improved as well as demonstrating an improved printability over the prior art synthetic papers as taught by Shepherd.

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicants invention was made to have modified Sackoff et al. to include a two-layered synthetic paper substrate as taught by Shepherd in order to provide an alternative to paper wherein durability and toughness are improved as well as demonstrating an improved printability over the prior art synthetic papers.

5. Claims 2, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sackoff et al. (#4,151,319) in view of Fagan (#4,783,354), Shepherd (#6,025,058), and Aoki et al. (#3,808,091) as applied to claims 1, 3-10, 12-13, and 16-17 above, and further in view of Ito et al. (#4,623,587).

Sackoff et al. fail to teach the use of a polyethyleneimine tie coating between the synthetic paper and the layer of adhesive.

Ito et al., however, teach a multi-layered film material comprising an adhesive layer and a layer of polyethylene and polypropylene copolymers (see Abstract). The film further comprises a polyethyleneimine tie layer between the adhesive and polyolefin base layer for the purpose of increasing the strength of the adhesive bond to the base (Col. 8, lines 3-10). It would have been obvious through routine experimentation to one of ordinary skill in the art at the time applicants invention was made to have used a tie layer between the base layer and adhesive layer of a shelf liner for the purpose of increasing the strength of the adhesive bond to the base as taught by Ito et al.

Art Unit: 1772

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicants invention was made to have modified Sackoff et al. by adding a tie layer between the base and adhesive layer as taught by Ito et al. in order to increase the strength of the adhesive bond to the base.

6. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sackoff et al. (#4,151,319) in view of Fagan (#4,783,354), Shepherd (#6,025,058), and Aoki et al. (#3,808,091) as applied to claims 1, 3-10, 12-13, and 16-17 above, and further in view of Warp (#4,947,999).

Although Sackoff et al., Fagan, Shepherd, and Aoki et al. fail to explicitly demonstrate the use of the shelf liners detailed above, it is notoriously well known in the art that the use of a shelf liner would entail the step of adhering the liner to a horizontal surface as demonstrated by Warp (Col. 4, lines 17-28 and 58-61).

Therefore, it would have been obvious at the time applicants invention was made to have modified Sackoff et al. by providing a horizontal surface to adhere the liner to as taught by Warp since it is notoriously well known in the art to provide a horizontal substrate for a shelf liner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Egan whose telephone number is 703-305-3144. The examiner can normally be reached on M-F, 8:30-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 703-308-4251. The fax phone numbers for the

Art Unit: 1772

organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

BPE
August 7, 2002


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772 8/9/02